

Adoption in England's Law

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Abstract

All children are entitled to grow up and rear as a member of an affectionate family. The family can help them to be fostered during childhood and thereafter. "Any child needs to be fostered in a family full of the affection and under the support of guardians, to feel security and to be settled there". This means that some adults are responsible of him/her (have commitment towards him/her) for long-term and they will support his/her growth and development. There is a family, which guides him/her from childhood through adulthood. According to Hendrich (1997), adoption can give the children who are not able to live with their parents, an opportunity to live in an affectionate, permanent and stable family and to be a part and a member of it" "In England, the most popular and conventional existing reason for which the children are adopted in a family is the misbehavior and incorrect treatment by the original parents. For adoption, children fall into three groups: the deserted children or infants (14%), the children whose parents have requested for adoption under complex conditions (24 %) and those children who required social services and the courts should issue an order for adoption (62%).” Children should perfectly be cared and protected by their parents. If the parents are not able to support the children enough and/or the parents cannot resolve the produced problems and difficulties, and/or they cannot contribute and involve in the losses which are generated for the child (such as abuse in alcoholic drinking's and narcotic addiction), the court can terminate their parental rights. In this case, the child can be adopted.

Introduction

Reasons for adoption

"The reasons for adoption and changing into a foster mother (an adopted mother) or a foster father (an adopted father) are different from a country to another country. Sometimes within a country, the reasons are different either (again) depending on the area and region. Many jurisdictions have different criteria (norms) and it is possible to determine some criteria (norms) such as the minimum and maximum age limits. In England, the most important reason for the individuals who want to adopt children is biological inability for reproduction. This is a popular and common reason, which is often due to infertility (sterility).

Some single persons and homo sexual mates often adopt a child. This is because of lack of a hetero sexual mate or partner in order to use as a substitute or sperm donor (Allen, 1992).

Some justify this in this way: instead of producing (generating) a new life by reproduction and avoiding the role and contribution to create excessive population and/ or irrespective of this belief; in this way, they are more responsible and responsive of caring children without guardian (Father and mother) than if they would reproduce themselves (their own children).

"Others may do this to avoid the transmission of congenital diseases; or they have some concerns related to health during pregnancy and delivery (child birth) such that they fell that by the presence of problems related to carrying a fetus (embryo) until delivery, the adoption is the best way for growth and development of a family.

Some believe that this form has a reliability (credit) equal to the family structure, so that if it is not better than biological procedure, it is not worse than it either."

A survey was conducted in relation to the importance (significance) of biological relationships and ties, which are related to the power and strength of family. “This data which is some part of a detailed survey is called as early childhood research (study). Its financial sponsor was American Institutions’ education (teaching) department. This research was funded by National science foundation, Spencer foundation, and the United States educational research association. This research shows that parents, who have adopted a child, will invest and spend more time on their child than others”

What is adoption?

“The adoption is a way to provide a new family for children who cannot be kept near their original parents.” This is a legal procedure in which all responsibilities of parents are transferred to the foster (adopted) father and foster (adopted) mother. “The effect of adoption order is to cut the responsibility and rights of original parents and to transfer those (responsibility and rights) to the adopted parent or parents. After accomplishment of final stage of adoption, there is no legal difference between the adopted children and those who were born by these parents.”

Kinds of Adoption

In most jurisdictions, the adoption begins with the decision of parents (who gave birth to the baby) to put their non-born or new-born baby near another family. The original parents may be able to choose what family their child belongs to. Depending on jurisdiction and local rule (law); may be they know already a family and they intend to put their child under the care of them or may be, they find some persons and intend to put their child under the care of them by referring to a lawyer or by finding a private or public (state) institute. This facilitates the adoption (Allen, 1982). Some adoptions, which are conducted in some jurisdictions as private, are illegal. Original parents who have given birth to the baby, have the option right to choose which kind of adoption do they want: Open semi-open (half-open) or closed one?

It is possible parents’ files (records) are given to them to look at them and choose among them or the institution may choose a family for them.

Open Adoption

Open Adoption is where the adopted child had access to his file and/or original records.

This may be a right, which these are available at special ages; for example, at the age of 18. A person, who was adopted in England, is autonomously entitled and eligible for birth certification. One definition of open adoption is where the original parents (who have given birth to a baby), like and decide to meet the adopted parents before they choose to put their child near them. If the original parents, who have given birth to the baby, are comfortable with this family, this relationship might be continued and developed even when the adoption ends up (finishes). This relationship (communication) can be very personal. It can include visits, telephone conversations (dialogues), exchange of letters, photographs and/or email. The adopted child can meet his/her original family. The communication is open such that the involved parties decide in this respect. In some jurisdictions, open (Free) adoptions are not applicable agreements legally.

Semi-open (Half-open) adoption

In a semi-open (half-open) adoption, the original parents who have given birth to the baby, might meet the adopted parents once or several times, and then there will be no further contact. The letters and photographs are exchanged directly or through a third party; for example, by an adoption institute. This relationship (communication) might be remained as semi-open (half-open) or half-free or might be evolved and changed into an open or closed relationship.

Closed adoption

In some adoptions, the undistinguished information (data) between parties is common; such as medical history (record). After the adoption is legitimized, no more information (data) is common between the parties. This might be happened because the involved parties don't want any contact.

The adoption is dividable in other views (perspectives) as follows:

Domestic adoption

A domestic adoption is the placement of one child for adoption in the country in which he/she was born and he/she naturally (normally) resides in it.

Nursery-based adoption

Nursery-based adoption is a kind of domestic adoption in which the child is initially placed in a nursery system and then, he/she is placed for adoption. The children can be placed (put) in the nursery because of kinds of reasons. Some of these reasons include: removal from the original family by a public (state) institution because of child's mistreatment by the original family. In most adoptions where the nursery children are addressed by parents, they decide to adopt the child. In sum, out of 127407 adoptions in the United States of America in 2001, about 51000 adoptions happened (occurred) through nursery system.

Intra-Family adoption

All adoptions are not from outside of the family. An intra-family adoption occurs (happens) when a child is adopted by a family member or his/her friend and partner. A common example for adoption is the foster (adopted) father or foster (adopted) mother where new spouse of a parent might adopt a child legally from the previous relation. Intra-family adoption can take place through transfer. It is when the parents have died or when the original parents who have given birth to the baby, are not able to take care of their child and a family member (a member of relatives) accepts to take care of him/ her.

International adoption

International adoption is placing (putting) a child in abroad for adoption where is not the birth place of the child. The rules of different countries differ from each other in their willing and authority for allowing international adoptions. Some countries such as china and Vietnam have (possess) relatively well-structured rules (laws) and procedures for those foreign persons (individuals) who adopt a child. While some countries such as united Arab Emirate prohibits it clearly. Some countries, among which many African nations can be mentioned, have extended the requirements of residence time. As a result (consequently), most of them don't accept international adoptions. Some countries such as Romania are totally near to international adoption.

The difference between adoption and child's guardianship

The child's guardians are under the supervision of a local authority and the child's parents. The child's guardianship has usually educational (training) aspect. Although sometimes it progresses according to the plan until the child grows up. This one-term fostering cannot provide the same legal safety, which the adoption provides it for the child. But it is possible it is a correct plan for some children.

Who can adopt a child?

Perhaps, you should be reached the age of 21.

Adoption by couples

1- An adoption order can be issued by request of couples provided that both of them have reached the age of 21.

2- An adoption order can be issued in the case of couples, request when:

a) One of the couples is the mother or father of the child who is going to be adopted and has reached the age of 18.

b) The other has reached the age of 21.

Also, in adoption, if the applicant is a person (an individual):

“1- The order of adoption can be issued by the request (application) of a person who has reached the age of 21 and has not married.

2- An adoption order can be issued by the request (application) of a person who has reached the age of 21; of course, if the court has been persuaded that the partner is one of the parents of the child whom is going to be adopted.

3- An adoption order can be issued by the request (application) of a person who has reached the age of 21 and has married. If the court has been persuaded that:

a) The individual's couple cannot be found.

b) The couples have divorced and live separately and it is going the divorce (separation) be permanent.

c) The individual's couple has not the capability to apply for (request) an adoption order due to disease, whether physical or mental.

4- Under this article (section), an adoption order cannot be issued by the request (application) of the mother of the child whom is going to be adopted unless the court has been persuaded that:

a) Natural parent is died and/or he cannot be found (discovered) anymore.

b) There is no other parent.

c) There is another reason which justifies a child is going to be adopted by an applicant.

When the court issues an adoption order according to such a request (an application), it should register (record) that it is satisfied with the fact mentioned in paragraph (a) or (b).

As it was mentioned (As-mentioned before), different conditions are dominant when the foster (adopted) child is married and/or single. Of course, it is not the end, some individuals think about the adoption but do not exert (perform) it; probably because they have older (high) age and think that they will not be accepted as foster (adopted) father or foster (adopted) mother. But they make a mistake. “There is no high (old) age limitation. The institutions are waiting to find foster (adopted) fathers or foster (adopted) mothers who have physical and mental energy (power) to take care of the requested (demanded) children. Their lifestyle certifies that they have yet that energy (power).

“A record of crimes will also be required to be examined (reviewed) and considered carefully. But necessarily, no person will be rejected except performing (conducting) a few crimes against children.”

If you intend to adopt a child, you should not be surely rich, it is not necessary to have a big house, to have a job or to be married. You are needed to be responsible (committed), energetic and to have the capacity to take care of the child for long-term who might be abused or ignored.

The practical experience indicates that the children will best perform their tasks when they are introduced into a family where their racial and ethnical identity (identities) is close to each other as much as possible. In England, strict attempts are performed to find a family, which reflects the personal identity of child. Given (presenting) the files of the prospective (future) foster father and mother (adopted father and mother), it is determined that this result is not always achieved. In such cases, social workers are forced to make a decision in this respect. In this case, the children will be transferred (delivered) to families, which are best fitted (suited) with most of their needs. Although it means that they are a different ethnical group.

“The handicapped and disabled persons are not deprived of having children. Sometimes, disability experience is positively welcome.” In England law, a single person (as explained) can be an applicant to take an adopted child. A partner in unmarried couples with heterosexuality can be an applicant either. From the date of exercising (performing) this law, unmarried couples in England can jointly apply for adoption. Now, is there another group who is able to apply for adoption?

Adoption by homosexual couples

Some certain (special) jurisdictions prevent homosexual individuals and couples to avoid adopting a child and/or they have considered a policy to have some requests (applications) by heterosexual individuals to adopt a child and prioritize this compared to those homosexual individuals. The issue of adoption (adopting a child) is related to heterosexual individuals. The preference to homosexual couples might be led to this belief that heterosexual individuals, who have adopted a child, have often reproduction problems. Therefore, medical fields (grounds) should be preferred. The opponents say that this system is not defensible in a free society.

“Adoption by individuals in homosexual marriages is allowed in Australia, England, Canada, Netherlands, Belgium, Sweden, and Spain and in the United States of America in regions including California, Massachusetts, New Mexico, New Jersey, New York, Vermont and Washington. Ireland where doesn't recognize homosexual relations (ties), doesn't allow the homosexual couples apply (request) for adoption; but it allows the application (request) of one of the couples”

Adoption institutions (agencies)

In England, there are institutes (institutions) where operate in the affairs of adopted children. Before the issuance of order, they conduct some consultations and examinations in respect of the adopted children and their parents.

“In law, the adoption support institution (agency) means to assume a responsibility; a commitment which its goal or one of its goals is to provide and procure the adoption support services. But, a commitment is not an adoption support institution (agency).

a) Since merely it provides some information in relation to adoption; except the goal (purpose) mentioned in section (1) article 98.

b) If it is expected from the view of act.2, the commitment has the same meaning which was indicated in the standard care act approved in 2000.”

The purpose of this article, i.e., act (section) 1 of article 98:

Assisting the adopted persons (children) to obtain some information about adoption before they reach the age of 18.

Of course, these institutions (agencies) are expected in cases where are expressed in the law.

“The members of a registered adoption association (society) in respect of the procurement of adoption support services are as follows:

A local educational authority, a special health authority (First care), general director of registration office and any other person among the persons about whom there is a description and definition in the regulations” By presence of adoption institutions (agencies), there will be a more compatible assessment (evaluation) process for the prospective foster (adopted) fathers and mothers throughout (all over) England.

If someone intends to adopt a child, the readiness for having an adopted child will be notified to him/her. He/she can attend in a meeting and discuss about it. Therefore, this person will know what expectation he/she should have from the institution (agency) which deals with the desired (intended) subject.

There is the probability to conform the children and comparing (matching) them with the prospective and expected parents who adopt the child with a more obvious comparison (match/analogy) and less limited one.

Therefore, the parties can focus (concentrate) on the comparison of their skills (competencies) and strong points (strengths) with something the child need; not relying on limited problems (matters) which have very little relationship with actual (real) needs of a child. Now, the prospective foster (adopted) fathers and mothers have the right to acquire the detailed information about the child with whom they should be matched and it is regulated in the report of the child's performance. The (Future) prospective parents play a more obvious (clear) role in planning of child. Their parental responsibility level should be defined by adoption institutions (agencies). Therefore, they will exactly know what is expected by them and what decisions they can make about the child with whom they live.

To achieve this purpose, these institutions (agencies) "might have the authority to need a person who discloses the information." Also, "they have the authority for information disclosure, or need to disclose information which is maintained in a registered case and may impose some conditions on information disclosure to limit (restrict) its further disclosure."

These institutions (agencies) have other tasks, which are generally brought in England law. "The regulations and rules can provide the necessary procurement (provisions) for each goal related to the following cases:

a) Exerting by the authorities and the volunteer adoption institutions (agencies) by exerting (exercising) their roles and functions in relation to adoption.

b) Exertion by adoption institutions (agencies) by exerting their roles and functions in relation to adoption.

The regulations might provide that a person, who violated from the provisions under this section and/or fails to follow it, should be recognized as an offender, guilty and eligible for conviction (sentencing) and he/she should be fined immediately which doesn't exceed the standard amount (level)."

England law has brought the cases related to adoption institutions (agencies) in articles 10, 12, 45, 54, 56 through 65 and 98. This represents the power and importance of such institutions (agencies) which are placed into it in a reformed (modified) form by modifying the previous rule and approving the present rules. It should be mentioned that these regulations are exercised since December 30, 2005.

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